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<a href="#">Case Header</a>	<a href="#">Parties &amp; Attorneys</a>	<a href="#">Docket Entries</a>	<a href="#">Charges, Judgments &amp; Sentences</a>	<a href="#">Service Information</a>	<a href="#">Filings Due</a>	<a href="#">Scheduled Hearings &amp; Trials</a>	<a href="#">Civil Judgments</a>	<a href="#">Garnishments/Execution</a>
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- 09/04/2019 ☐ **Entry of Appearance Filed**  
Entry of Appearance - Lincare Inc; Electronic Filing Certificate of Service.  
Filed By: BRIAN MATTHEW WACKER  
On Behalf Of: LINCARE, INC.
- 08/08/2019 ☐ **Summons Personally Served**  
19-SMCC-262; Electronic Filing Certificate of Service.
- 07/25/2019 ☐ **Summons Issued-Circuit**  
Document ID: 19-SMCC-262, for LINCARE, INC..
- 07/24/2019 ☐ **Filing Info Sheet eFiling**  
Filed By: GEORGE OWEN SUGGS
- ☐ **Pet Filed in Circuit Ct**  
Plaintiffs Petition for Violation of Missouri's Human Rights Act; Exhibit 1.  
On Behalf Of: JACKLYN ELMENDORF
- ☐ **Judge Assigned**

**EXHIBIT  
A**

19L6-CC00096

Electronically Filed - LINCOLN COUNTY - July 24, 2019 - 10:36 AM

IN THE CIRCUIT COURT OF THE COUNTY OF LINCOLN  
FORTY-FIFTH JUDICIAL CIRCUIT  
STATE OF MISSOURI

JACKLYN ELMENDORF f/k/a  
JACKLYN GASSEL,

Plaintiff,

v.

LINCARE, INC.,

Defendant.

Cause No. \_\_\_\_\_

Division No. \_\_\_\_\_

Serve:

CT CORPORATION SYSTEM  
Registered Agent for Lincare, Inc.  
120 South Central Avenue  
Clayton, Missouri 63105

**PLAINTIFF'S PETITION FOR VIOLATION OF MISSOURI'S HUMAN RIGHTS ACT**

COMES NOW Plaintiff, Jacklyn Elmendorf f/k/a Gassel, by and through counsel, and  
for her cause of action against Defendant Lincare, Inc., states as follows:

1. Plaintiff is a resident of the State of Missouri.
2. Plaintiff's gender is female.
3. Defendant is a foreign corporation, registered to do business in the State of Missouri,  
with its Registered Agent listed as CT Corporation System, located at 120 South Central  
Avenue, Clayton, Missouri 63105.
4. Plaintiff's employment with Defendant began on March 8, 2016.
5. At all times relevant hereto, Plaintiff was employed by Defendant.
6. Venue is proper in this Court pursuant to Section 508.010 R.S.Mo., in that Plaintiff was  
injured by the wrongful acts of Defendant in Lincoln County, Missouri and, as such, suit  
may be brought in Lincoln County.

7. Plaintiff was a Customer Service Representative for Defendant from March 8, 2016 until June 15, 2018.
8. Plaintiff became pregnant in or around December, 2017.
9. In the month of December, 2017, Plaintiff notified her supervisor, Dana Wysocky that she was pregnant.
10. Plaintiff's duties as a Customer Service Representative included but not limited to answering phones and contact with doctors and nurses.
11. At all times material hereto Center Manager Dana Wysocky supervised Plaintiff.
12. On April 6, 2018 Plaintiff requested Family Medical Leave Act ("FMLA") paperwork for leave to begin August 24, 2018, when she was scheduled to deliver her baby.
13. Center Manager Wysocky informed Plaintiff that Wysocky had a vacation scheduled during the time that Plaintiff would be on FMLA leave.
14. Approximately two weeks before Plaintiff's termination and after submitting her FMLA paperwork, Plaintiff was brought into a meeting with Regional Manager Josh Bennett and Center Manager Wysocky to discuss to wit:
  - a. Whether Plaintiff intended to come back to work after Plaintiff's baby was delivered; and
  - b. Whether Plaintiff was aware of the cost of day care that Plaintiff would incur if she returned to work.
15. Plaintiff informed them that she intended to come back to work after delivering her baby.
16. On June 15, 2018, after working a full day, Plaintiff was informed by Center Manager Wysocky that she was terminated.

- a. Wysocky further told Plaintiff that Plaintiff has too much going on and should be focused on baby and her health.
  17. Defendant terminated Plaintiff's employment because of her gender and because she was pregnant in that Plaintiff's gender and pregnancy were the determining factors in the Defendant's decision to terminate her employment.
  18. Defendant terminated Plaintiff's employment in violation of the Missouri Human Rights Act, Section 213.010 R.S.Mo., *et seq.*
  19. On or about September 29, 2018, Plaintiff filed a charge with the Missouri Commission on Human Rights against Defendant alleging pregnancy and gender discrimination.
  20. The Missouri Commission on Human Rights issued a Notice of Right to Sue to Plaintiff in connection with said charges on or about April 30, 2019, which is attached hereto as Exhibit 1.
  21. By reason of Defendant's violation of the Missouri Human Rights Act, Plaintiff has suffered actual damages from the loss of wages and benefits she would have been paid by Defendant which continue to increase to date.
  22. By reason of Defendant's actions, Plaintiff has suffered emotional distress by reason of which Plaintiff has suffered damages.
  23. Defendant's actions were outrageous because of Defendant's evil motive or reckless indifference to the rights of the Plaintiff, by reason of which the Plaintiff is entitled to an award of punitive damages in order to punish the Defendant and to deter Defendant and others from like conduct.
- Wherefore, Plaintiff prays this Court enter Judgment in her favor and against Defendant as follows:

- a. Declare that Defendant violated the Missouri Human Rights Act, Section 213.010 R.S.Mo., *et seq.*;
- b. Award Plaintiff damages in the amount of back pay and benefits from June 15, 2018 to the date of Judgment;
- c. Award Plaintiff compensatory damages for emotional distress in an amount that will compensate Plaintiff for such loss;
- d. Award Plaintiff punitive damages in an amount that will deter Defendant and others from like conduct;
- e. Order that Defendant reinstate Plaintiff to employment with Defendant or in the alternative award her front pay until such time as she would reasonably have found alternative suitable employment;
- f. Award Plaintiff her reasonable attorneys' fees and costs; and
- g. Award such other relief as the Court deems proper.

Respectfully submitted,

SCHUCHAT, COOK & WERNER

/s/George O. Suggs

George O. Suggs (M.B.E. #31641)  
1221 Locust Street, Second Floor  
St. Louis, MO 63103  
Tel: (314) 621-2626  
Fax: (314) 621-2378  
gos@schuchatcw.com

Attorney for Plaintiff

19L6-CC00096



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**MISSOURI COMMISSION ON HUMAN RIGHTS**

MICHAEL L. PARSON  
GOVERNOR

ANITA S. HUI  
DEPARTMENT DIRECTOR

Melody A. Smith, Ed.D.  
ACTING COMMISSION CHAIRPERSON

ALISA WARREN, Ph.D.  
EXECUTIVE DIRECTOR

Jacklyn Elmendorf  
1440 Meinershagen Road  
Foristell, MO 63348

**NOTICE OF RIGHT TO SUE**

RE: Jacklyn Elmendorf vs. LINCARE, INC.  
E-09/18-50122 28E-2019-00100C

The Missouri Commission on Human Rights (MCHR) is terminating its proceedings and issuing this notice of your right to sue under the Missouri Human Rights Act because you have requested a notice of your right to sue.

This letter indicates your right to bring a civil action within 90 days of the date of this notice against the respondent(s) named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, but it must be brought no later than two years after the alleged cause occurred or its reasonable discovery. Upon issuance of this notice, the MCHR is terminating all proceedings relating to the complaint. No person may file or reinstate a complaint with the MCHR after the issuance of a notice of right to sue relating to the same practice or act. You are hereby notified of your right to sue the Respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. This notice of right to sue has no effect on the suit-filing period of any federal claims. This notice of right to sue is being issued as required by Section 213.111.1, RSMo, because it has been over 180 days after the filing of the complaint and MCHR has not completed its administrative processing.

Respectfully,

Alisa Warren, Ph.D.  
Executive Director

April 30, 2019  
Date



Additional contacts on next page:



3315 W. TRUMAN BLVD.  
P.O. Box 1129  
JEFFERSON CITY, MO 66102-1129  
PHONE: 573-751-3325

111 N. 7TH STREET, SUITE 603  
ST. LOUIS, MO 63101-2100  
PHONE: 314-340-7590  
FAX: 314-340-7238

P.O. Box 1300  
OZARK, MO 65721-1300

1410 GENESEE, SUITE 260  
KANSAS CITY, MO 64102  
FAX: 816-889-3562

108 ARTHUR STREET  
SUITE D  
SIKESTON, MO 63801-5434  
FAX: 573-472-5321

*Missouri Commission on Human Rights is an equal opportunity employer/programs. Auxiliary aides and services are available upon request to individuals with disabilities.*

TDD/TTY: 1-800-735-2966 (TDD) Relay Missouri: 711  
www.labor.mo.gov/mohumanrights E-Mail: mchr@labor.mo.gov

RE: Jacklyn Elmendorf vs. LINCARE, INC.  
E-09/18-50122 28E-2019-00100C

Juanita Lichtenberg, HR Business Partner  
LINCARE HOLDINGS INC.  
19387 U.S. Highway 19 North  
Clearwater, FL 33764

George O. Suggs  
ATTORNEY AT LAW  
1221 Locust St., Suite 250  
Saint Louis, MO 63103



## IN THE 45TH JUDICIAL CIRCUIT, LINCOLN COUNTY, MISSOURI

Judge or Division: PATRICK SHAWN FLYNN	Case Number: 19L6-CC00096
Plaintiff/Petitioner: JACKLYN ELMENDORF	Plaintiffs/Petitioner's Attorney/Address GEORGE OWEN SUGGS 2ND FLOOR 1221 LOCUST ST ST LOUIS, MO 63103-2364
Defendant/Respondent: LINCARE, INC.	Court Address: 45 BUSINESS PARK DR. TROY, MO 63379
Nature of Suit: CC Employment Discrimnntn 213.111	

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: LINCARE, INC.

Alias:

CT CORPORATION SYSTEM, REG AGT  
120 SOUTH CENTRAL AVENUE  
CLAYTON, MO 63105  
COURT SEAL OF



LINCOLN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

7/25/2019

Date

Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.  
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)

In \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

SB 8/24




## IN THE 45TH JUDICIAL CIRCUIT, LINCOLN COUNTY, MISSOURI

Judge or Division: PATRICK SHAWN FLYNN	Case Number: 19L6-CC00096
Plaintiff/Petitioner: JACKLYN ELMENDORF	Plaintiff's/Petitioner's Attorney/Address GEORGE OWEN SUGGS 2ND FLOOR 1221 LOCUST ST ST LOUIS, MO 63103-2364
Defendant/Respondent: LINCARE, INC.	Court Address: 45 BUSINESS PARK DR. TROY, MO 63379
Nature of Suit: CC Employmnt Discrmntn 213.111	

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: LINCARE, INC.  
Alias: 30 CTOR  
CT CORPORATION SYSTEM, REG AGT  
120 SOUTH CENTRAL AVENUE  
CLAYTON, MO 63105  
COURT SEAL OF

  
LINCOLN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

7/25/2019 Date Clerk *Diane Dell*

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with \_\_\_\_\_, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to:☐ other: CT CORPORATION (name) LCW - B. LOVE (title).Served at CT CORPORATION (address)in St. Louis County (County/City of St. Louis), MO, on AUG 08 2019 (date) at 9 AM (time).Jim Buckler  
Printed Name of Sheriff or Server[Signature]  
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

19-SMCC-7088

IN THE CIRCUIT COURT OF LINCOLN COUNTY  
STATE OF MISSOURI

JACKLYN ELMENDORF,

Plaintiff,

vs.

LINCARE INC.,

Defendant

§  
§  
§  
§  
§  
§  
§  
§

Case No. 19L6-CC00096

**ENTRY OF APPEARANCE**

COME NOW, Brian M. Wacker and the firm of SmithAmundsen LLC and hereby enter their appearance on behalf of Defendant Lincare Inc. in the above-captioned matter.

RESPECTFULLY SUBMITTED,

SMITHAMUNDSEN LLC

/s/ Brian M. Wacker

Brian M. Wacker, #61913  
120 S. Central Ave., Suite 700  
Saint Louis, MO 63105  
Tel: 314-719-3700  
Fax: 314-719-3710  
bwacker@salawus.com

ATTORNEYS FOR  
DEFENDANT LINCARE INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on 4th day of September, 2019, a copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Missouri eFiling System upon all counsel of record.

/s/ Brian M. Wacker